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## VIRGINIA IN 1681-1682.

(Abstracts by W. N. SAINSBURY, and Copies in the McDonald  
and De Jarnette Papers, Virginia State Library.)  
(Continued)

1681 MEM'DM—THAT THE REPORT OF THE LORDS  
Dec. 22. OF TRADE AND PLANTATIONS to the King dated  
the 13<sup>th</sup> Inst. (which see) being read in Council  
on the 22<sup>d</sup> Dec. 1681, was approved except  
what concerns Robert Beverly (1) and Col.  
Hill wherein Sir John Berry is to be summoned  
and the complaint of the Commissioners to be  
again examined.  
(Col. Entry Bk. No. 82, p. 6.)

Whitehall Jan. 12, 1681-2  
1681-2 MINUTES OF A COMMITTEE OF TRADE AND  
Jan'y 12, PLANTATIONS—Draughts of Commission and  
Whitehall. Instructions prepared for Lord Culpeper as  
Governor of Virginia, read: ordered that his  
Lordship take them into consideration and  
return his objections (if he have any) in writing  
on Thursday next.  
(Colonial Entry Bk. No. 106, p. 333.)

1681-2      Jan. 16, 1681-2  
Jan'y 16.      ORDER OF THE KING IN COUNCIL—His  
Whitehall.      Majesty taking notice that the ships bound for  
                         Virginia upon which the money appointed for the

(1) This refers to Culpeper's recommendation that Beverley and Hill be restored to their offices.

pay of the two Companies there, was put on board, were yet detained in the Downs, Orders that three months pay more be allowed to the said Companies, which is to be continued unto them until the first of April next—and the Lords of the Treasury are directed to provide and transmit the said money accordingly.

(Colonial Entry Bk. No. 82, pp. 9-10.)

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Mile-End Green, Jan. 17, 1681-2

1681-2  
Jan'y 17.  
Mile-End  
Green

SIR JOHN BERRY TO WILLIAM BLATHWAYT—Received his letter when at death's door in a violent fever—To inform the Lords (of Trade and Plantations) that he has no papers in his possession which concern M<sup>r</sup> Beverly, M<sup>r</sup> Hill or any other persons of Virginia—All papers and accounts were in the custody of Col. Moryson (2) who delivered them to the Council Board before his death. 1. p.

(Colonial Papers.)

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Whitehall, Jan. 19, 1681-2

1681-2  
Jan'y 19.  
Whitehall

MINUTES OF A COMMITTEE OF TRADE AND PLANTATIONS—Officers of Customs attend with account of exports and imports from & to the Plantations for Oct. last, and represent the evils that may arise, if bonds given in Virginia by Masters of ships for making true entries there should be put in execution in Virginia, upon information to be gathered from these accounts, as the Masters terrified would venture to run

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(2) Col. Francis Moryson, who had been Governor of Virginia from April 1661 until late in 1662, and also one of the English Commissioners for the suppression of Bacon's Rebellion. See this Magazine II, 382-385. He died in 1680 or 1681.

their goods as they pay five Pounds in England instead of 2s. in Virginia—Lord Culpeper attends—his Commission read—desires power to make up the number of Councillors from seven to nine—agreed to report this particular to his Maj. in Council—It being referred to the Committee by Order in Council of 18<sup>th</sup> inst. to consider, of the manner of restraining the Assembly from meeting until Lord Culpeper's arrival, their Lordships will propose a letter to Sir H. Chicheley forbidding him to call an Assembly without the consent of seven of the Council at least. Ordered that Lord Culpeper farther consider draught of his Commission & Instructions & put in writing any exceptions. 2 pp.

(Colonial Entry Bk. No. 106, pp. 337-339.)

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Whitehall, Jan. 20, 1681-2

1681-2  
Jan'y 20-21.  
Whitehall.

THE KING TO SIR HENRY CHICHELEY, LIEUT. GOVERNOR OF VIRGINIA—His Majesty intending within few months to direct Thomas Lord Culpeper to repair to his Government of Virginia, with the signification of our pleasure upon the several particulars propounded unto us concerning the same, The King requires them not to call any Assembly or permit them to sit until the 10<sup>th</sup> Nov. next ensuing the date hereof unless by the consent of seven or more of the Council they shall find it necessary to convene the same before that time.

(Colonial Entry Bk. No. 99. Another copy of this letter dated 21 January is entered in Col. Entry Bk. No. 82, pp. 11-12.)

Council Chamber Jan. 21, 1681-2

1681-2.  
Jan'y 21.  
Council  
Chamber.

THE LORDS OF TRADE AND PLANTATIONS TO THE KING—They have prepared such a Commission and Instructions for Lord Culpeper as they thought proper for his Maj. service—It is provided in the Commission that his Lordship shall have power to constitute so many Councillors as shall make up the number of seven. But his Lordship desiring the power of appointing so many Councillors as shall at any time make up the whole number of nine, their Lordships submit the same to his Maj, determination.

(Col. Entry Bk. No. 82, p. 14.)

Whitehall Jan. 21, 1681-2

1681-2  
Jan'y 21  
Whitehall

MINUTES OF A COMMITTEE OF TRADE AND PLANTATIONS—Draught of letter to Sir H. Chicheley approved forbidding him to call an Assembly without the consent of seven of the Council at least until 10<sup>th</sup> Nov<sup>r</sup> next—Lord Culpeper's instructions read; that concerning the freedom of Virginia ships to be left out—An Act made in 1661 entitled Appeals(3) have to be made, to be repealed—no Appeal to be made to the Assembly on any account whatsoever—Opinion that in all cases Appeals above £100 be made to the King—that an Instruction provide that the Governor & Council propose to

(3) Its right to be an appellate court was long a subject of dispute between the Assembly and the Governor and Council. The act of 1661 referred to, is in *Henning II*, 65, &c. Culpeper's announcement of the instructions from the king abolishing the practice of appealing to the Assembly was made on May 23, 1683 (*Henning III*, 550). The order in regard to servants imported would seem to abolish the ancient "head right" title to 50 acres for every person who came into the Colony; but if this was the meaning the ruling was not long enforced for in 1705 (*Henning III*, 304), an act of Assembly gives the old importation rights. There is no mention of their ever being suspended.

the Assembly the best methods of trying appeals before said Gov. & Council, under that value—That no land be set out on account of Christian servants at their importation, but, that 50 acres be allotted upon becoming free—The Gov. & Council may raise the price of foreign coins by Proclamation only but all imposts & duties to be paid according to the intrinsic value of same—To consider Robert Beverley's matter when Sir John Berry, who is sick, is able to attend—Former directions concerning the Declaration of the Assembly touching the public records to be inserted in his Lordship's instructions.

(Colonial Entry Bk. No. 106, pp. 339-340.)

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Jan (?) 1681-2

1681-2  
Jan'y ?  
to follow 21.

MEM'DM—THAT THE REPORT OF THE LORDS OF TRADE AND PLANTATIONS to the King of the 21<sup>st</sup> Jan'y (which see) was approved in Council and ordered that power be given to Lord Culpeper by his Commission to appoint so many Councillors as shall at any time make up the full number of nine.

(Col. Entry Bk. No. 82, p. 14.)

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COMMISSION TO THE LORD CULPEPER

GOVERNOR OF VIRGINIA

27<sup>th</sup> of Nov. 1682.

Charles R.

Our Will and Pleasure is that you prepare a Bill for Our Royal Signature to pass Our Great Seale in the words or to the effect following

Charles the Second by the Grace of God King of England, France and Ireland, Defender of y<sup>e</sup> Faith &c. To Our Right Trusty and Well beloved Thomas Lord Culpeper Greeting. Whereas by Our Letters Patents under Our Great Seal<sup>e</sup> of England bearing date the eighth day of July in the seaven and twentieth year of our Reigne Wee granted unto you Thomas Lord Culpeper the Office of Our Lieutenant and Governor General of all that Our Colonie and Dominion of Virginia in America, with all its Rights, Members and appertinances whatsoever. To hold execute and enjoy the said Office during your natural life, next and immediately after the death, surrender forfeiture or other sooner determination of the interest of Sir William Berkley Knight.

To act according to his Commission and such further Instructions as he shall receive under his Ma'tys signet & signe manual and according to the Laws made by him with the Council and Assembly.

1. And whereas the said S<sup>r</sup> William Berkley being now deceased you are from the day of his decease, by Virtue of Our said Letters Patents become legally possessed of the said Office of Our Lieutenant and Governor General of Our said Colonie and Dominion of Virginia during your natural life, as aforesaid, Wee do therefore for your better guidance and direction therein, hereby require and command you to doe and execute all things in due manner that shall belong unto your said Office and the Trust Wee have reposed in you, according to the several powers Instructions and Authorities mentioned in these presents, or such farther Powers instructions and Authorities as you shall now receive or which shall at any time hereafter, bee granted or appointed you under Our Signet and Signe Manual and according to such reasonable Laws and Statutes as now are or hereafter shall be made and agreed upon in such manner and form as is hereafter expressed.

To take the  
Oaths of  
Allegiance  
and Su-  
premacy  
and that of  
Governor  
to be ad-  
ministered  
by three of  
the Council  
and hee  
thereupon  
to give y<sup>e</sup>  
Oaths of  
Allegiance  
and Su-  
premacy  
as alsoe the  
Test and the  
Oath of  
Councillor  
to each of  
the Council.

2. And it is Our Will and Pleasure that you the said Thomas Lord Culpeper having after your arrival at Virginia and Publication of these Our Letters Patents first taken the Oaths of Allegiance and Supremacy together with the Oath of duely executing the Office and Trust of Our Lieuten<sup>t</sup> and Governor General of Our said Colonie and Dominion of Virginia (which Our Council in the said Colonie or any three of them are hereby required, authorized and impowered to give and administer unto you and in your absence to Our Lieutenant or Deputy Governor) you shall administer unto each of the Members of the said Council as alsoe to Our Lieutenant or Deputy Governor as well the Oaths of Allegians and Supremacie and the Test mentioned in an Act of Parliament, made in the 25<sup>th</sup> year of Our Reigne intituled an Act for preventing danger which may happen from Popish Recusants, as the Oath for y<sup>e</sup> due execution of their Places and Trust.

Power to  
suspend  
any of the  
Council.

2. And Wee doe hereby give and grant unto you full power and authority to suspend any of y<sup>e</sup> Members of the said Council from sitting, voting and assisting therein as you shall find just cause for soe doing.

That upon  
suspension,  
death or  
absence of  
any of the  
said Coun-  
cellors

4. And Our Will and Pleasure is that if by the death Departure out of the said Colony or suspension of any of Our Counsellors, there shall happen to be a vacancy in our said Council (any Three whereof Wee do hereby appoint to be a Quorum) Wee doe hereby require you to certify unto us by y<sup>e</sup> first opportunity such



(Three whereof are to be a quorum) he certify the same to the King supply the Vacancy.

Power to appoint Councillors when there shall be fewer than Nine so as to Compleat the said Number of Nine which are to be confirmed by the King.

Noe Counsellors displaced to be of the Assembly.

Power with advice of the Council to call Assemblys.

vacancie by the death, departure, suspension or otherwise of any of Our said Councillors that Wee may under Our Signe Manual constitute and appoint others in their room.

5. But that Our affairs at that distance may not suffer for want of a due number of Councillors if ever it shall happen that there are less than Nine of them residing in Our saide Colonie, Wee do hereby give and grant unto you full power and authority to choose as many persons out of the principal Freeholders Inhabitants thereof as will make up the full number of the Council to be Nine and noe more. Which persons soe chosen and appointed by you shall be to all intents and purposes Counsellors in Our said Colonie until either they are confirmed by Us or that by nomination of other Counsellors by Us under Our Signe Manual and Signet the said Council hath above Nine persons in it.

6. And Our Will and Pleasure is that every Member of the said Council suspended by you or displaced by Us shall be incapable during such suspension and after being so displaced, to be a Member of the General Assembly.

7. And Wee do hereby give and grant unto you full power and Authority with the advice and consent of the said Council, from time to time as need shall require, to summon and call General Assemblys of the Freeholders and Planters within your Government in manner and forme as is now practiced in Virginia.

The persons to be elected out of the Major part of the Freeholders, and to take the Oaths of Allegiance and Supremacy.

8. And Our Will and Pleasure is that y<sup>e</sup> persons thereupon duly elected by the major part of the Freeholders of the respective Counties and places and soe returned (and having before their sitting taken y<sup>e</sup> Oaths of Allegiance and Supremacy which you shall commissionate fit persons under the Publick Seale to administer and without taking which none shall bee capable of sitting though elected—shall be call'd and held the General Assembly of that Our Colonie and Dominion.

Who are to make Laws.

9. And that you the said Thomas Lord Culpeper by and with the advice and consent of Our said Council and Assembly or the major part of them respectively have full power and authority to make, constitute and ordain Laws, Statutes and Ordinancies for the public Peace, Welfare and good Government of Our said Colonie, and of the People and Inhabitants thereof and such others as shall resort thereto and for the benefit of Us, Our Heirs and Successors.

Agreeable to the Laws of England.

10. Which said Laws, Statutes and Ordinances are to bee (as neer as conveniently may bee) agreeable unto the Laws and Statutes of this Our Kingdom of England.

To be transmitted under the Publick Seale within three months for Approbation.

11. Provided that all such Laws, Statutes and Ordinances of what nature and duration soever bee within three Months or sooner after making of y<sup>e</sup> same transmitted unto Us under the Publick Seale of Virginia for Our allowance and approbation of them; as alsoe Duplicats thereof by the next Conveyance.

Laws  
disallowed  
by his  
Ma'tie to  
bee Void.

12. And in case all or any of them (being not before confirmed by us) shall at any time be disallowed and not approved and soe signified by Us Our Heirs and Successors under Our or Their Signe Manual and Signet, or by order of Our or Their Privy Council unto you the said Thomas Lord Culpeper or to the Commander in Chief of Our said Colonie for the time being, then such and soe many of them as shall bee so disallowed and not approved shall from thenceforth cease, determine and bee utterly void and of none effect anything to the contrary thereof notwithstanding.

The  
Governor  
to have a  
negative  
voice.

13. And to the end nothing may be passed or done by the said Council or Assembly to the prejudice of Us Our Heirs or Successors Wee Will and ordain that you the said Thomas Lord Culpeper shall have and enjoy a Negative Voice in the making and passing of all Laws, Statutes and Ordinances as aforesaid.

With power  
to prorogue  
and dissolve.

14. And that you shall and may likewise from time to time as you shall judge necessary adjourn prorogue and dissolve all General Assemblys as aforesaid.

To use and  
keep the  
Publick Seal.  
To admin-  
ister the  
Oath of  
Allegiance  
to whom  
he shall  
think fit.

15. And Our Will and Pleasure is that you shall and may keep and use the Publick Seale already appointed by Us for Virginia.

16. And Wee do further give and grant unto you the said Thomas Lord Culpeper full power and authority from time to time and at any time hereafter by yourselfe or by any other to bee Authorized by you in that behalfe to administer and give the Oath of Allegiance now established in this our Realm of England to all and every such persons as you shall think fit who shall at any time or times pass into Our said Colonie or shall be resident or abiding there.

(To be continued)